

The attached is an agreement between the City of Indianola and the National Balloon Museum regarding the proposed project property. Although the City owns the land and is, therefore, responsible for completing the proposed project, the National Balloon Museum is responsible for on-going maintenance of the building and the grounds.

Due to this, **the City has no applicable operating or maintenance revenue or expense with regards to the project area to report.**

L T I S C	FILE No. 4368	FILED FOR RECORD THE 9	DAY OF	STATE OF IOWA, WARREN COUNTY:
	RECORDING FEE \$ 85.00	February	19 88 AT 3:13	Judith K. Lathrop, Recorder
	TRANSFER FEE \$	O'CLOCK P. M. BOOK 59	PAGE 303-319	Deputy

NATIONAL BALLOON MUSEUM AGENCY AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO by the National Balloon Museum, Inc., a corporation duly organized under the laws of the State of Iowa, hereinafter referred to as "Museum", the City of Indianola, Iowa, hereinafter referred to as "City", the Balloon Federation of America, Inc., a corporation duly organized under the laws of the State of Iowa, hereinafter referred to as "BFA", providing for the creation of the Balloon Museum Agency, hereinafter referred to as "Agency", whose membership consists of Museum, City, and BFA, as hereinafter provided.

IT IS AGREED AS FOLLOWS:

1. **AUTHORITY.** The City, Museum and BFA enter into this agreement pursuant to powers granted by Chapter 28E of the Code of Iowa (1983), as amended.

2. **RELATIONSHIP OF PARTIES.** The Museum and the BFA hereby reaffirm the By-Laws of the National Balloon Museum, Inc., and specifically Article IV, which states:

ARTICLE IV

Selection and Tenure of Directors

"Section 1. The Board of Directors shall be composed of ten persons, five appointed by the Balloon Federation of America, and five appointed by the Indianola Balloons, Inc.

"The Board of Directors of each of the two supporting corporations shall appoint one person for a five-year term so that continuity will be maintained."

The Museum and the BFA further reaffirm the Resolution of the Board of Directors of the National Balloon Museum, Inc. of January 15, 1980, which states as follows:

"BE IT RESOLVED that the Board of Directors commits itself to a concerted campaign for funds for the period from 1980 to 1985. Said funds to be used for the construction, upkeep and maintenance of the building for the purpose of a National Balloon Museum, said building to be situated at Indianola, Iowa.

"The Board shall also accept artifacts and funds for the preservation, display and upkeep of its collection.

"The Board agrees that all artifacts in its possession, now and in the future, belong to and are on loan from the Balloon Federation of America, and that in case this Corporation is ever dissolved, the Board shall return all artifacts to the Balloon Federation of America,

"This Resolution is signed by all members of the Board of Directors, and the same cannot be altered without unanimous approval of the Board of Directors of the National Balloon Museum, Inc."

The parties hereby modify said Resolution as to ownership of the real estate as stated in Paragraphs 12 and 14 hereafter.

The parties acknowledge that the Indianola Balloons, Inc. changed its name to National Balloon Championships, Inc. in 1983.

The Balloon Federation of America agrees that all artifacts shall be on permanent loan to the National Balloon Museum until said corporation is dissolved.

3. FORMATION. Pursuant to those powers conferred, the parties do hereby create a separate Agency to carry out the purposes of this agreement.

4. TITLE. The Agency herein created shall be known as the National Balloon Museum Agency.

5. PURPOSE. The purpose of this Agency is to permit the parties to this agreement by joint effort to erect, operate, and maintain a national balloon museum on land owned by the City, hereinafter described, which facility shall be available and open to the public. Said museum is to be used for the display and exhibition of lighter-than-air craft equipment and artifacts relating to such craft. The facility contemplated may contain a library and facilities for a library, museum room, and offices to accommodate groups affiliated with the Museum. It is contemplated that the Museum will supervise the erection and provide for the day-to-day management and the operating and maintenance of the facility.

6. SUBSTITUTION OF PARTIES. In the event the Museum should wish to assign its interest in this agreement to a third party or to a successor in interest, it may do so with and only with consent of the City. Assignment without such a consent shall constitute an automatic dissolution of this agreement. Any assignee or successor in interest shall be obligated under this agreement in the same manner as the Museum and the BFA.

7. FINANCING. The City shall make available to the Agency the following described real estate:

(See attached Exhibit "A")

The Museum shall provide all funds for the construction and operation and maintenance of the proposed facility including any parking

lots which are deemed a necessary part of the facility. The terms "construction", "operation", and "maintenance" as used herein shall be broadly interpreted and shall include, but not be limited to, real estate taxes and special assessments which might be levied against the subject real estate; insurance which might be required by this agreement or later determined desirable; required landscaping; and the extension or repair of any utility installation which might be necessary to erect the proposed structure and make it reasonably suitable and safe for its intended purpose. In the event the Museum fails to provide the funding necessary to begin construction of a facility deemed suitable by the Agency on or before December 31, 1986, or in the event that adequate funds, at any time during the life of this agreement, are not provided to maintain a suitable operation or proper maintenance, then the dissolution procedure provided herein shall become operative. It is not contemplated that the City will provide or make any financial contribution to the facility other than the real estate as described in this Paragraph, and the City shall be under no obligation to make any such additional financial contribution. No fees collected by the Museum during the duration of this agreement shall inure to the benefit of the City, but shall instead be retained by the Museum for the repair, maintenance and general enhancement of the facility. The Agency shall be provided with such staff, equipment, meeting space and other support by the Museum as the Agency may determine is reasonably necessary to carry out its duties under this agreement.

8. CONTEMPLATED FACILITY. It is contemplated by the parties that the facility which will be constructed under the terms and conditions of this agreement shall be in accordance with plans and specifications for the museum building, which will be prepared by Brown - Healy - Bock, Architects, of Cedar Rapids. The general building design and layout shall be subject to the City's approval, but such approval shall not be unreasonably withheld. In addition to the structure itself, it is contemplated that there will be suitable landscaping and an adequate parking lot constructed on the area described in Paragraph 7. Changes, modifications, additions and deletions may be made with the approval of the Agency. Material changes in the exterior of the structure cannot be made without the City's approval. Such approval shall not be unreasonably withheld.

9. ORGANIZATION. The business and affairs of the Agency shall be conducted by a body designated as the board of directors, hereinafter referred to as "Board".

The Board shall consist of one representative appointed by the City, three representatives appointed by the Museum, and one representative appointed by the BFA. Each member of the Board shall have one vote. The representatives shall serve for four-year terms, but the initial representative appointed by the City shall only have a one-year term. One of the initial representatives selected by the Museum shall be designated to serve for a two-year term, and one shall have a three-year term, so that the terms shall be staggered. All terms shall expire on December 31, and in the event that initial appointments are made mid-year, the first

year of service shall be determined to have been completed on the first December 31 following the time of appointment. In the event of a resignation, the body appointing the resigning position shall immediately appoint a successor. Board members shall serve without pay. In the event that any party hereto fails to appoint a representative when required under the terms of this agreement, the Board will function with a reduced directorate consisting of those who are legally appointed and acting, and that membership shall be used for determining a quorum in the transaction of business.

10. FINANCIAL INFORMATION. The facility contemplated shall be operated on a non-profit basis and for the benefit of the public, and no profits therefrom, if any, shall inure to any person or private organization. The books and records pertaining to the operation of the museum shall be available to the Agency Board at any reasonable time, and at the end of each calendar year, a complete accounting audited by a certified public accountant shall be made available to both the individual Board members and to the Board.

11. DURATION. The duration of this agreement and the Agency created thereby shall be perpetual unless this agreement is terminated and the Agency dissolved as provided by the terms of this instrument.

12. OWNERSHIP. The City shall own the real estate upon which the structure proposed by this agreement is to be erected, the Agency shall own the building to be constructed thereon, and the BFA shall own all artifacts, exhibits and memorabilia which

however, shall be restricted in accordance with the terms of this agreement, and the development, maintenance, and operation shall be subject to the agreement and the Agency created by the agreement as hereinafter provided.

Under no circumstances shall the City or the Agency have any ownership, right or control over any of the equipment, exhibits or contents of the facility contemplated by this agreement. The Agency's only concern with contents or exhibits shall be to determine if compliance has been made with Item (g) of Paragraph 13 of this agreement. On termination, the Museum shall be obligated within sixty days to remove the equipment, exhibits and contents, and if the Museum fails to do so, the City may proceed by forcible entry and detainer, the same as if the Museum were a tenant at sufferance. When removed, the equipment and exhibits shall be distributed pursuant to existing agreements creating the Museum.

13. POWERS. The Board shall be specifically charged with the following responsibility and have the following powers and duties, and its decisions in regard thereto shall be final and binding on the parties to this agreement:

(a) Final approval of any structure or material alteration hereto to be erected on the real estate described as Exhibit A. This power shall include minimum standards as to size of the structure, parking lot, accommodations and general suitability for the intended purposes of the proposed structure.

(b) Final approval of any landscaping to be effected on the real estate described in Paragraph 7.

(c) Determination of the amount and type of insurance to be maintained on the facility and its operations to protect the interests of the parties to this agreement as well as the interests of the Agency. Existing insurance and the determination as to what is desirable or necessary shall be reviewed by the Board at least once every two years.

(d) To make decisions, where provided by this instrument, which will result in the dissolution of the agreement.

(e) To approve of the hours the facility is scheduled to be open to the public and the general rules regarding public access, including a schedule of fees, if any, to be charged for public admission.

(f) To determine and approve or disapprove of the level of maintenance of the grounds, facility and parking lot covered by the agreement.

(g) To generally determine whether or not the facility is adequately and appropriately staffed and stocked to comply with the stated purposes of this agreement.

Failure or refusal of the Museum to abide by a decision of the Board as to any deficiency which the Board might feel present will, within the discretion of the Board, trigger the dissolution procedures hereinafter set out in this instrument.

14. DISSOLUTION. On dissolution of this Agency and termination of this agreement, the real estate described in Paragraph 7 shall be the City's without restriction or reservation, and the improvements thereon, regardless of the paid for their cost

struction, shall also become the property of the City without restriction or reservation; all artifacts and personal property shall return to and become the property of the Balloon Federation of America, Inc.

The agreement may be dissolved by any of the following methods:

(a) By agreement of the parties.

(b) By determination of the Board that either party is failing to abide by the terms of this agreement. In the event such a determination is made by the Board, both parties to the agreement shall be notified, and the offending party shall have sixty days within which to correct the deficiency. If the deficiency is not corrected or arrangements provided for correction, and the corrective procedures initiated in a manner satisfactory to the Board and both parties hereto, the Agency shall be dissolved and this agreement terminated. A resolution of dissolution made by the Board and filed of record with the Warren County Recorder and a resolution of concurrence to the dissolution passed by the governing board of the City filed with the Warren County Recorder shall constitute a completed dissolution and notice thereof. A determination of the deficiency requiring dissolution made by the Board may be voided by concurring actions of the Museum and the City.

(c) By the unilateral action of the Museum in the event

that it no longer wishes to be bound by this agreement and that the property should be turned over to the City. The Board must give to the City a notice one year in advance of the selected date of dissolution, if it determines to exercise its option of unilateral dissolution herein provided.

(d) By the action of the City through its City Council in the event of a failure to procure adequate financing for construction or maintenance as provided in Paragraph 6 hereof, or in the event of a failure to refusal to erect a suitable structure by December 31, 1986, as provided by Paragraphs 7 and 8 hereof.

15. AMENDMENT OF AGREEMENT. This agreement may be amended from time to time, which amendment may be proposed by a majority vote of the Board of the governing body of this agreement. Such amendment, however, shall not be effective until it has been approved by a majority vote of the governing body of each member.

16. BOARD ORGANIZATION.

(a) The Board shall select a chairman, vice-chairman and secretary-treasurer. An officer of the Board shall serve until December 31 of the year elected, or until the respective successor in office is elected and qualifies.

(b) A quorum of the Board shall consist of a majority of the entire Board membership at the time of the meeting.

(c) The Board shall hold at least one meeting every year on a date and at a place which shall be determined by it.

Special meetings may be held at the call of the chairman or majority of the Board membership.

17. AGREEMENT EXECUTION. Each party executing this agreement warrants by its signature that they and each of them have full authority to execute and thereby sign their respective body to this agreement.

18. EFFECTIVE DATE. This agreement shall be in full force and effect immediately upon filing and recordation as provided by Section 28E.8 of the Code of Iowa (1985).

THIS AGREEMENT ENTERED INTO by the City of Indianola, Iowa, this 7th day of April, 1986.

CITY OF INDIANOLA, INC.

BY

Irene Richardson
IRENE RICHARDSON, Mayor

ATTEST:

A. Kay Vinson
A. Kay Vinson, Deputy City Clerk

THIS AGREEMENT ENTERED INTO by National Balloon Museum, Inc.
this 9th day of April, 1986.

NATIONAL BALLOON MUSEUM, INC.

BY: Pat O. Starnatz, President
Patricia A. McClintock, Sec.

THIS AGREEMENT ENTERED INTO by Balloon Federation of America,
Inc. this 19th day of April, 1986.

BALLOON FEDERATION OF AMERICA, INC.

BY: [Signature]

Rob Baithalman Sec.

[illegible]

EXHIBIT "A"

That part of the SE 1/4 NE 1/4 of Section 24, Township 76 North, Range 24 West of the 5th P.M., City of Indianola, Warren County, Iowa, described as follows:

Beginning at the NE corner of Lot 17, APPLE VALLEY ESTATES PLAT 2, an Official Plat; thence N. $00^{\circ}32'21''$ E. (bearing as shown on recorded Final Plat of APPLE VALLEY ESTATES PLAT 2 and all subsequent bearings referenced thereto), 215.00 feet to the north line of said SE 1/4 NE 1/4 and the NE corner of Lot 18, APPLE VALLEY ESTATES PLAT 2; thence S. $89^{\circ}12'46''$ E., along the North line of said SE 1/4 NE 1/4 303.39 feet to a point on the Westerly right-of-way line of U.S. Highway No. 65-69; thence S. $11^{\circ}22'06''$ E., along said Westerly right-of-way line, 180.87 feet; thence S. $01^{\circ}25'34''$ W., along said right-of-way line, 85.00 feet; thence N. $89^{\circ}12'46''$ W., 168.08 feet; thence Northwesterly along a curve to the right having a central angle of $30^{\circ}30'45''$ and a radius of 199.02 feet, an arc distance of 105.99 feet; thence Westerly along a curve to the left having a central angle of $30^{\circ}27'41''$ and a radius of 139.02 feet, an arc distance of 73.91 feet to the point of beginning; said parcel containing 1.884 acres, more or less and subject to easements of record.

Except

That part of the SE 1/4 NE 1/4 of Section 24, Township 76 North, Range 24 West of the 5th P.M., City of Indianola, Warren County, Iowa, described as follows:

Beginning at the NE corner of Lot 17, APPLE VALLEY ESTATES PLAT 2, an Official Plat; thence N. $00^{\circ}32'21''$ E. (bearing as shown on recorded Final Plat of Apple VALLEY ESTATES PLAT 2 and all subsequent bearings referenced thereto), 60.00 feet to the SE corner of Lot 18, APPLE VALLEY ESTATES PLAT 2; thence Southeasterly along a curve to the right having a central angle of $30^{\circ}33'06''$ and a radius of 199.02 feet, an arc distance of 106.13 feet; thence Easterly along a curve to the left having a central angle of $30^{\circ}30'45''$ and a radius of 139.02 feet, an arc distance of 74.04 feet; thence S. $89^{\circ}12'46''$ E., 168.75 feet to a point on the West right-of-way of U.S. Highway No. 65-69; thence S. $01^{\circ}25'34''$ W., along said right-of-way line, 60.00 feet; thence N. $89^{\circ}12'46''$ W., 168.08 feet; thence Northwesterly along a curve to the right having a central angle of $30^{\circ}30'45''$ and a radius of 199.02 feet, an arc distance of 105.99 feet; thence Westerly along a curve to the left having a central angle of $30^{\circ}27'41''$ and a radius of 139.02 feet, an arc distance of 73.91 feet to the point of beginning; said parcel containing 0.479 acres, more or less and subject to easements of record.

original.

FIRST AMENDMENT TO NATIONAL BALLOON MUSEUM AGENCY AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO by the National Balloon Museum, Inc., the City of Indianola, Iowa, and the Balloon Federation of America, Inc.

WHEREAS, the parties previously entered into an agreement entitled NATIONAL BALLOON MUSEUM AGENCY AGREEMENT OF APRIL, 1986, and

WHEREAS, paragraph 15 of the original Agreement provides for amendments to the Agreement, and

WHEREAS, the parties desire to amend the original Agreement,

NOW THEREFORE, it is hereby agreed that the following shall constitute the first amendment to the NATIONAL BALLOON MUSEUM AGENCY AGREEMENT:

1. Legal title to the real estate upon which the balloon museum building is to be built shall be held by the Museum and not the City. The Museum shall own the real estate upon which the structure proposed by the original Agreement is to be erected, the Museum shall own the building to be constructed thereon, the BFA shall own all artifacts, exhibits and memorabilia which shall be on "permanent loan" to the Museum.

The Museum shall have full authority to mortgage or pledge the real estate (which includes the structure to be erected and any contemplated improvements to such real estate) as collateral to finance the construction of the building. In no event shall the real estate, including the completed building, be mortgaged or pledged in any manner for more than a period of five years

shall at no time be responsible, directly or indirectly, for the balloon museum construction debt, and all financing documents shall clearly state that the City and the BFA are not responsible for the debt. If the Museum defaults on the construction loan, the city may cure the default and pay off the loan as scheduled, or at its option, the city may cure the default and retire the debt completely. If the city exercises either option, then upon completion of payment of the debt, the Museum, or other entity holding legal title to the property, shall execute and deliver to the city a warranty deed for the real estate including the building. The city shall have a period of six months from the time it is first notified of the default in which to exercise either option. Such notification may be provided by the lender, the Agency, the Museum or the BFA. Neither the City nor the BFA shall be obligated to assume responsibility for the loan for the real estate and building. All financing documents shall clearly state that the City has a right of first refusal if the Museum defaults on the loan.

Immediately upon the securing of financing for construction of the building, the Museum shall disclose to the City and the BFA the terms and conditions of the financing. Upon the delivery of the final loan payment for the construction of the building, the Museum, or other entity holding legal title to the property, shall contemporaneously execute and deliver to the City a Warranty Deed for the real estate upon which the structure is built. Thereafter, the City shall own the real estate upon which the structure proposed by the original Agreement is to be erected, the Museum

shall own the building to be constructed thereon, the BFA shall own all artifacts, exhibits and memorabilia which shall be on "permanent loan" to the museum. The ownership rights of each, however, shall be restricted in accordance with the terms of this Agreement and the original Agreement.

2. The date "December 31, 1986" in paragraphs seven and fourteen (d) of the original NATIONAL BALLOON MUSEUM AGENCY AGREEMENT is hereby amended to "December 31, 1987".

3. All pledges receivable by the Agency for the construction of the building shall be applied to the construction debt as soon as they are received.

4. Any parts of the original NATIONAL BALLOON MUSEUM AGENCY AGREEMENT in conflict with these amendments are repealed.

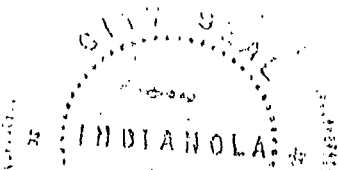
5. Each party executing this Agreement warrants by its signature that they and each of them have full authority to execute and thereby sign their respective body to these amendments.

6. This Agreement shall be in full force and effect immediately upon filing and recording as provided by Section 28E.8 of the Code of Iowa (1985).

THIS AGREEMENT ENTERED INTO by the City of Indianola, Iowa, this 4th day of May, 1987.

CITY OF INDIANOLA, INC.

BY: Irene Richardson
IRENE RICHARDSON, Mayor



THIS AGREEMENT ENTERED INTO by National Balloon Museum, Inc.
this 3rd day of August, 1987.

NATIONAL BALLOON MUSEUM, INC.

BY: Pete C. Starnes, President
Patricia A. McClintock, Secretary

THIS AGREEMENT ENTERED INTO by Balloon Federation of America,
Inc. this 6 day of June, 1987.

BALLOON FEDERATION OF AMERICA, INC.

BY: Raymond J. [Signature]
Thomas A. Davies

RECEIVED
JUN 10 1987
NATIONAL BALLOON MUSEUM
INC.